



CT Corporation

**Service of Process  
Transmittal**

12/02/2021

CT Log Number 540674860

**TO:** Ivan Smith  
The Scotts Company  
14111 Scottslawn Rd  
Marysville, OH 43040-7801

**RE: Process Served in Texas**

**FOR:** The Scotts Company LLC (Domestic State: OH)

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

**TITLE OF ACTION:** Re: WILLIS STEVEN COUCH // To: The Scotts Company LLC

**DOCUMENT(S) SERVED:** --

**COURT/AGENCY:** None Specified  
Case # 35233058521

**NATURE OF ACTION:** Personal Injury - Failure to Maintain Premises in a Safe Condition

**ON WHOM PROCESS WAS SERVED:** C T Corporation System, Dallas, TX

**DATE AND HOUR OF SERVICE:** By Process Server on 12/02/2021 at 12:13

**JURISDICTION SERVED :** Texas

**APPEARANCE OR ANSWER DUE:** None Specified

**ATTORNEY(S) / SENDER(S):** None Specified

**ACTION ITEMS:** CT will retain the current log  
Image SOP  
Email Notification, Ivan Smith Ivan.Smith@scotts.com  
Email Notification, Kristen Welker kristen.welker@scotts.com  
Email Notification, SOP emailgroup SOP@scotts.com  
Email Notification, Mark Sedor Mark.Sedor@Scotts.com

**REGISTERED AGENT ADDRESS:** C T Corporation System  
1999 Bryan Street  
Suite 900  
Dallas, TX 75201  
866-331-2303  
CentralTeam1@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.



## PROCESS SERVER DELIVERY DETAILS

**Date:** Thu, Dec 2, 2021

**Server Name:** Ronald Cobb

Entity Served	THE SCOTTS COMPANY LLC
Case Number	35233058521
Jurisdiction	TX



THE STATE OF TEXAS  
DISTRICT COURT, TARRANT COUNTY

CITATION

Cause No. 352-330585-21

WILLIS STEVEN COUCH  
VS.  
HOME DEPOT U.S.A., INC., ET AL

TO: THE SCOTTS COMPANY LLC

B/S REG AGT-CT CORPORATION SYSTEM 1999 BRYAN ST STE 900 DALLAS, TX 75201-3136

You said DEFENDANTS are hereby commanded to appear by filing a written answer to the PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND at or before 10 o'clock A.M. of the Monday next after the expiration of 20 days after the date of service hereof before the 352nd District Court, 100 N CALHOUN, in and for Tarrant County, Texas, at the Courthouse in the City of Fort Worth, Tarrant County, Texas said PLAINTIFF being

WILLIS STEVEN COUCH

Filed in said Court on November 30th, 2021 Against  
HOME DEPOT USA INC, THE SCOTTS COMPANY LLC

DELIVERED THIS 2nd DAY OF December  
AT 11:47 AM/PM

BY: Rebecca  
PROCESSOR/CLERK/PROSECUTOR  
INITIALS: RE LCH: USW

For suit, said suit being numbered 352-330585-21 the nature of which demand is as shown on said PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND a copy of which accompanies this citation.

MICHAEL H SMITH  
Attorney for WILLIS STEVEN COUCH Phone No. (817)877-5750  
Address 6040 CAMP BOWIE BLVD STE 14 FORT WORTH, TX 76116

Thomas A. Wilder, Clerk of the District Court of Tarrant County, Texas. Given under my hand and the seal of said Court, at office in the City of Fort Worth, this the 1st day of December, 2021.

By

Natalie Thigpen  
NATALIE THIGPEN



A CERTIFIED COPY  
ATTEST: 12/01/2021  
THOMAS A. WILDER  
DISTRICT CLERK  
TARRANT COUNTY, TEXAS  
BY: /s/ Natalie Thigpen

NOTICE: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 AM, on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.

Thomas A. Wilder, Tarrant County District Clerk, 100 N CALHOUN, FORT WORTH TX 76196-0402

OFFICER'S RETURN \*35233058521000004\*

Received this Citation on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M; and executed at \_\_\_\_\_ within the county of \_\_\_\_\_, State of \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by delivering to the within named (Def.): \_\_\_\_\_ defendant(s), a true copy of this Citation together with the accompanying copy of PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND, having first endorsed on same the date of delivery:

Authorized Person/Constable/Sheriff: \_\_\_\_\_

County of \_\_\_\_\_ State of \_\_\_\_\_ By \_\_\_\_\_ Deputy

Fees \$ \_\_\_\_\_

State of \_\_\_\_\_ County of \_\_\_\_\_ (Must be verified if served outside the State of Texas)

Signed and sworn to by the said \_\_\_\_\_ before me this \_\_\_\_\_ day of \_\_\_\_\_,

to certify which witness my hand and seal of office

(Seal)

County of \_\_\_\_\_, State of \_\_\_\_\_

---

**CITATION**

---

Cause No. 352-330585-21

**WILLIS STEVEN COUCH**

**VS.**

**HOME DEPOT U.S.A., INC., ET AL**

**ISSUED**

This 1st day of December, 2021

Thomas A. Wilder  
Tarrant County District Clerk  
100 N CALHOUN  
FORT WORTH TX 76196-0402

By **NATALIE THIGPEN** Deputy

---

**MICHAEL H SMITH**  
Attorney for: **WILLIS STEVEN COUCH**  
Phone No. (817)877-5750  
ADDRESS: 6040 CAMP BOWIE BLVD STE 14

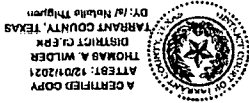
FORT WORTH, TX 76116

**CIVIL LAW**



\*35233058521000004\*

SERVICE FEES NOT COLLECTED  
BY TARRANT COUNTY DISTRICT CLERK  
**ORIGINAL**



NO. 352-330585-21

FILED  
TARRANT COUNTY  
11/30/2021 2:15 PM  
THOMAS A. WILDER  
DISTRICT CLERK

WILLIS STEVEN COUCH  
Plaintiff,

vs.

HOME DEPOT U.S.A., INC. and  
THE SCOTTS COMPANY, LLC  
Defendant.

§  
§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT  
  
OF TARRANT COUNTY, TEXAS  
  
\_\_\_\_ JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND**

Plaintiff, Willis Steven Couch, files this Original Petition and Jury Demand.

**Discovery Control Plan**

1. Discovery is intended to be conducted under Level 2 of Texas Rule of Civil Procedure 190.

**Parties**

2. Plaintiff, Willis Steven Couch, is an individual who resides in Tarrant County, Texas. In accordance with Tex. Civ. Prac. & Rem. Code § 30.014, which requires the disclosure of partial identification information for parties to a civil action; the last three numbers of Plaintiff's Texas Driver's License are 102, and the last 3 numbers of Plaintiff's Social Security Number are 730.

3. Defendant, Home Depot U.S.A., Inc., is a foreign corporation, organized and existing under the laws of the state of Delaware, whose home office is located at 2455 Paces Ferry Rd SE Atlanta,

~~GA-30339, is authorized to do business in Texas and may be served with process by serving its~~

~~registered agent for service of process at Corporation Service Company d/b/a CSC - Lawyers~~

Incorporating Services Company 211 E. 7<sup>th</sup> Street, Ste. 620, Austin, TX 78701-3218

4. Defendant, The Scotts Company, LLC is a foreign corporation, organized and existing under the laws of the state of Ohio, whose home office is located at 14111 Scottlawn Rd, Marysville, OH 43041-0001 is authorized to do business in Texas and may be served with process

by serving its registered agent for service of process at CT Corporation System, 1999 Bryan Street, Stc. 900 Dallas, TX 75201-3136.

### **Jurisdiction**

5. The Court has jurisdiction over defendants, nonresidents, because they have purposely availed themselves of the privileges and benefits of conducting business in Texas. The Court has jurisdiction over the controversy because the damages are within the jurisdictional limits of the Court.

### **Venue**

6. Venue is proper in Tarrant County because it is the county in which all or a substantial part of the events or omissions giving rise to the claims occurred. *See* TEX. CIV. PRAC. & REM. §15.002(a)(1).

### **Background**

7. This lawsuit results from an injury plaintiff suffered while shopping in the garden center of The Home Depot located at 9509 White Settlement Road, White Settlement, Texas 76108. Plaintiff rounded an endcap display of Scott's Miracle Gro Products and was tripped by the damaged pallet which extended well beyond the product stacked upon it. Plaintiff fell forward, with his face, arm and knee striking the concrete floor.

8. Plaintiff suffered significant injuries as a result of this fall including a partial thickness

### **Negligence**

10. Because Willis Steven Couch was an invitee at the time of his injury, Defendants owed him a duty to exercise ordinary care to keep the premises in reasonably safe condition, inspect the premises to discover latent defects, and to make safe any defects or give adequate warning of any dangers. Additionally, Defendants, as possessors of the premises, owed Plaintiff a duty to repair and/or maintain the property in a reasonably safe condition.

11. Defendants' conduct, and that of their agents, servants, and employees, acting within the scope of their employment, constituted a breach of the duty of ordinary care owed by Defendants to plaintiff. Defendants knew or should have known that the condition on their premises created an unreasonable risk of harm.

12. At all relevant times, Defendants committed one or more of the following acts or omissions, either directly or through their employees, agents, officers, supervisors, representatives and contractors each of which, alone or in combination, amounted to acts and/or omissions which a reasonably prudent owner and/or operator would not have done under the same or similar circumstances, proximately causing the occurrences, injuries and damages complained of herein:

a. Failing to properly monitor, assess and/or safeguard the condition of the premises and, the safety of persons, such as Plaintiff, who were present on the premises;

b. Failing to properly investigate, inspect and/or discover defects which existed on the premises;

c. Failing to properly document the physical condition and defects which were contained on or which affected the premises;

d. Failing to properly remedy, correct, repair, eradicate and/or remove defects which were known and/or which should have been known to exist, in the exercise of reasonable care;

e. Failing to properly warn, notify or advise Plaintiff of the existing defects and the dangers associated with the premises; and

g. Failing to adequately train and supervise its employees.

13. Defendants failed to exercise ordinary care to reduce or eliminate the risk of injury to Willis Steven Couch by both failing to adequately warn him of the condition and failing to make the condition reasonably safe. Defendants' negligence proximately caused severe injury to Willis Steven Couch.

14. At all times material hereto, all of the agents, servants, and/or employees of Defendants who were connected with the occurrence made the subject of this suit were acting within the course and scope of their employment or official duties and in furtherance of the duties of their office or employment. Therefore, the named Defendants are vicariously liable for the negligent acts and omissions of their employees and agents under the doctrine of Respondeat Superior.

#### **Damages**

15. As a proximate cause of defendant's negligence, plaintiff suffered bodily injury. As a result of his injuries, plaintiff suffered the following damages:

- a. Physical pain and mental anguish in the past and future;
- b. Lost earnings;
- c. Damage to earnings capacity;
- d. Disfigurement in the past and future;
- e. Physical impairment in the past and future; and,
- f. Medical expenses in the past and future.

16. Plaintiff seeks monetary relief over \$250,000 but not more than \$1,000,000.

#### **Jury Demand**

17. Plaintiff demands a jury trial.



**Request for Relief**

18. For these reasons, plaintiff requests judgment against defendants for:
- a. Past and future actual damages;
  - b. Costs of suit;
  - c. All prejudgment and post-judgment interest permitted by law; and
  - e. All other legal or equitable relief the court deems appropriate.

Respectfully submitted,

SMITH & SMITH

By: /s/ Michael H. Smith

Michael H. Smith

State Bar No. 00785005

Daniel J. Smith

State Bar No. 18557100

6040 Camp Bowie Blvd., Suite 14

Fort Worth, Texas 76116

(817) 877-5750

(817) 877-8899 (Fax)

E-mail: msmith@smithsmith-law.com

E-mail: dsmith@smithsmith-law.com

ATTORNEYS FOR PLAINTIFF

**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Sharon Janusz on behalf of Michael Smith

Bar No. 785005

sej@smithsmith-law.com

Envelope ID: 59560064

Status as of 11/30/2021 2:22 PM CST

**Case Contacts**

Name	BarNumber	Email	TimestampSubmitted	Status
Daniel JSmith		dsmith@smithsmith-law.com	11/30/2021 2:15:07 PM	SENT
Michael H.Smith		msmith@smithsmith-law.com	11/30/2021 2:15:07 PM	SENT
Sharon Janusz		sej@smithsmith-law.com	11/30/2021 2:15:07 PM	SENT